

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

TRAVELERS CASUALTY AND SURETY COMPANY as  
Administrator for RELIANCE INSURANCE COMPANY,  
Plaintiff,

vs.

DORMITORY AUTHORITY - STATE OF NEW YORK,  
TDX CONSTRUCTION CORP. and KOHN PEDERSEN  
FOX ASSOCIATES, P.C.,

Defendants.

Case No. 07-CV-6915 (DLC)  
**ECF CASE**

DORMITORY AUTHORITY OF THE STATE OF NEW  
YORK and TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

vs.

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

TRATAROS CONSTRUCTION, INC. and TRAVELERS  
CASUALTY AND SURETY COMPANY,

Fourth-Party Plaintiffs,

vs.

CAROLINA CASUALTY INSURANCE COMPANY;  
BARTEC INDUSTRIES INC.; DAYTON SUPERIOR  
SPECIALTY CHEMICAL CORP. a/k/a DAYTON  
SUPERIOR CORPORATION; SPECIALTY  
CONSTRUCTION BRANDS, INC. t/a TEC; KEMPER  
CASUALTY INSURANCE COMPANY d/b/a KEMPER  
INSURANCE COMPANY; GREAT AMERICAN  
INSURANCE COMPANY; NATIONAL UNION FIRE  
INSURANCE COMPANY OF PITTSBURGH, PA.;  
UNITED STATES FIRE INSURANCE COMPANY;  
NORTH AMERICAN SPECIALTY INSURANCE  
COMPANY; ALLIED WORLD ASSURANCE COMPANY  
(U.S.) INC. f/k/a COMMERCIAL UNDERWRITERS  
INSURANCE COMPANY; ZURICH AMERICAN  
INSURANCE COMPANY d/b/a ZURICH INSURANCE  
COMPANY; OHIO CASUALTY INSURANCE  
COMPANY d/b/a OHIO CASUALTY GROUP;  
HARLEYSVILLE MUTUAL INSURANCE COMPANY  
(a/k/a HARLEYSVILLE INSURANCE COMPANY,);

**TRAVELERS CASUALTY  
AND SURETY COMPANY'S  
AND TRATAROS  
CONSTRUCTION, INC.'S  
ANSWER TO  
COUNTERCLAIMS AND  
CROSS-CLAIMS OF  
WEIDLINGER ASSOCIATES**

JOHN DOES 1-20 and XYZ CORPS. 1-19,

Fourth-Party Defendants.

KOHN PEDERSEN FOX ASSOCIATES, P.C.,

Third-Party Plaintiff,

vs.

WEIDLINGER ASSOCIATES CONSULTING  
ENGINEERS, P.C., CASTRO-BLANCO PISCIONERI  
AND ASSOCIATES, ARCHITECTS, P.C.,  
ARQUITECTONICA NEW YORK, P.C., COSENTINI  
ASSOCIATES, INC., CERMAK, PETERKA PETERSEN,  
INC., JORDAN PANEL SYSTEMS CORP., TRATAROS  
CONSTRUCTION, INC. and LBL SKYSYSTEMS (U.S.A.),  
INC.,

Third-Party Defendants.

Plaintiff/Counterclaim Defendant/Fourth-Party Plaintiff, Travelers Casualty and Surety Company (“Travelers”), and Third-Party Defendant/Fourth-Party Plaintiff, Trataros Construction, Inc. (“Trataros”), by and through their attorneys, Dreifuss Bonacci & Parker, LLP, as and for their Answer to the counterclaims and cross-claims of Third-Party Defendant, Weidlinger Associates Consulting Engineers, P.C. (hereinafter, the “Cross-Claims”), allege as follows:

**ANSWER TO CROSS-CLAIM AND COUNTERCLAIM FOR  
CONTRIBUTION AND/OR INDEMNIFICATION**

1. Travelers and Trataros are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs 1-31, 33-34, 37-40, and 42-45 of the “Answer of Weidlinger Associates to Kohn Pedersen Fox Associates, P.C.’s Third-Party Complaint” (hereinafter the “Third-Party Answer”). Travelers and Trataros deny the allegations set forth in Paragraphs 32, 35-36, and 41 of the Third-Party Answer. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 46 of the Cross-Claims, except said allegations are denied to the extent they allege

liability on the part of Travelers and Trataros. Trataros is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 46 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Trataros and Travelers.

2. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 47 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Travelers and Trataros. Trataros is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 47 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Trataros and Travelers.

**ANSWER TO CROSS-CLAIM AND COUNTERCLAIM  
FOR CONTRACTUAL INDEMNIFICATION**

3. Travelers and Trataros repeat and reallege their answers to Paragraphs 1-45 of the Third-Party Answer and Paragraphs 46-47 of the Cross-Claims as though same were fully set forth herein. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Travelers and Trataros. Trataros is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Trataros and Travelers.

4. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 49 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Travelers and Trataros. Trataros is without knowledge or information sufficient to form a belief as to the truth of the allegations

contained in Paragraph 49 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Trataros and Travelers.

**WHEREFORE**, Travelers and Trataros demand judgment against Third-Party Defendant, Weidlinger Associates Consulting Engineers, P.C. for the following relief:

- a. dismissal of the Cross-Claims with prejudice;
- b. award of attorneys fees, costs and disbursements; and
- c. such other and further relief as the Court deems just and proper.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

The Cross-Claims fail to state a cause of action upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

The Cross-Claims are barred by the doctrine of estoppel.

#### **THIRD AFFIRMATIVE DEFENSE**

The Cross-Claims are barred by the doctrine of unclean hands.

#### **FOURTH AFFIRMATIVE DEFENSE**

The Cross-Claims are barred by the doctrine of waiver.

#### **FIFTH AFFIRMATIVE DEFENSE**

The Cross-Claims are barred as they may not properly be interposed in this action.

#### **SIXTH AFFIRMATIVE DEFENSE**

The Cross-Claims are barred under the doctrine of release.

#### **SEVENTH AFFIRMATIVE DEFENSE**

The Cross-Claims are barred by documentary evidence.

## EIGHTH AFFIRMATIVE DEFENSE

Travelers and Trataros reserve their rights to rely upon any and all additional defenses available to them, and all Defendants, third-party defendants, fourth-party defendants, and other parties to the above-captioned matter, and any and all defenses asserted by Trataros and/or Travelers against claims or counter-claims asserted by any party to this action.

## **NINTH AFFIRMATIVE DEFENSE**

Travelers and Trataros reserve their rights to rely upon any and all additional defenses which may be disclosed during discovery in the within action.

Dated: Florham Park, New Jersey  
April 8, 2008

DREIFUSS BONACCI & PARKER, LLP

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TO: see attached Service List

**Travelers Cas. and Sur. Co. v. Dormitory Auth. – State of N.Y., et al.**  
United States District Court, Southern District of New York  
Civil Action No. 07-CV-6915

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